

ST 03-0078-GIL 06/20/2003 MANUFACTURING MACHINERY & EQUIPMENT

The retreading of tires for wholesale or retail sale is generally considered manufacturing for purposes of the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code 130.2015. (This is a GIL.)

June 20, 2003

Dear Xxxxx:

This letter is in response to your letter dated February 6, 2003. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I have been asked to inquire if the State of Illinois considers a retread operation to be exempt from sales tax when purchasing 'envelopes' from their vendor.

My information shows the state does consider a 'retread' business to be within the manufacturing classification. Additionally, various items used in the retread process receive either a partial or full exemption from sales tax. However, I am not quite sure as to whether the state considers 'envelopes' used during a tire curing process to be an ingredient or a piece of manufacturing equipment.

Question 1: Is an envelope considered to be an ingredient or a piece of manufacturing equipment?

Question 2: Based on the answer to question 1, should the retread business receive a full Exemption from tax when making the purchase upon their supplying a properly Completed ST-587 with their vendor? Or, should the customer pay tax on their purchase and file a Report of Manufacturer's Purchase Credit Earned (Form ST-16) with the State of Illinois and receive approval to receive a partial tax credit on future purchases of production related by providing a properly completed Form ST-16-C with their vendor?

I am forwarding various industry related documents and copy of a page from our catalog.

Thank you for your assistance on this issue.

## DEPARTMENT'S RESPONSE:

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See the enclosed copy of 86 Ill. Adm. Code 130.330, enclosed. The exemption also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation.

"Manufacturing" is defined as the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, which changes some existing material or materials into a material with a different use, form, or name. These changes must result from the process in question and be substantial and significant.

Not all types of equipment, or other items of tangible personal property, qualify for the exemption simply because they are used in, or even essential to, a manufacturing process. For example, consumable supplies do not qualify for the exemption and are subject to Retailers' Occupation Tax.

The retreading of tires for wholesale or retail sale is generally considered manufacturing for purposes of the manufacturing machinery and equipment exemption. See subpart (a)(1)(E) of the enclosed copy of 86 Ill. Adm. Code 130.2015. The information enclosed with your letter states that "[e]ach tire before it is placed into the curing chamber must have an envelope applied over the tire to form a flexible mechanical pressure to the pre-cure tread so that there is a flow of the cushion gum that bonds the pre-cure tread to the buffed casing during the curing cycle." You stated in a telephone conversation that the envelopes have an average useful life of between 50 to 60 uses. Based on the information provided, we believe that the use of the envelopes as described in your letter would qualify for the manufacturing machinery and equipment exemption.

Please find enclosed a copy of 86 Ill. Adm. Code 130.331 governing the Manufacturer's Purchase Credit (MPC). The State of Illinois provides a manufacturer's purchase credit in addition to the exemption for manufacturing machinery and equipment. Purchasers of manufacturing machinery and equipment that qualifies for the manufacturing machinery and equipment exemption earn a credit in an amount equal to a fixed percentage of the tax which would have been incurred under the Use Tax or Service Use Tax. See 35 ILCS 105/3-85 and 35 ILCS 110/3-70. Accumulated MPC credit may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption. See Section 130.331(b).

In order to validate credit earned as the result of a qualifying purchase of exempt manufacturing machinery and equipment or exempt graphic arts machinery and equipment, the manufacturer or graphic arts producer must report credit earned to the Department by signing and filing an Annual Report of Manufacturer's Purchase Credit Earned (ST-16) for each calendar year no later than the last day of the sixth month following the calendar year in which the Manufacturer's Purchase Credit is earned. See Section 130.331(e)(1). A purchaser that fails to properly file an Annual Report of Manufacturer's Purchase Credit Earned (ST-16) or an Annual Report of Manufacturer's Purchase Credit Used (ST-17) with the Department by the last day of the sixth month following the end of the calendar year forfeits all Manufacturer's Purchase Credit earned or used for

that calendar year, unless the purchaser establishes that the purchaser's failure to file was due to reasonable cause. See Section 130.331(e)(6).

Please be aware that the General Assembly has passed Senate Bill 842 that repeals the earning of MPC on and after July 1, 2003 and does not allow the use of MPC after September 30, 2003. The Governor has not signed the bill into law as of the mailing of this letter. You may wish to track the status of this legislation on the General Assembly's Internet website ([www.legis.state.il.us](http://www.legis.state.il.us)).

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk  
Enc.